(1) (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

Single Bench

WRIT PETITION NO. 1863 /2006

D.K. Raghuvanshi,
S/o- Late K.L. Raghuvanshi,
Aged about 56 years,
Presently working as Sub-Divisional Engineer(Rural),
Office of General Manager Telecom District-Durg,
Distt. Durg,
Chhattisgarh. **PETITIONER**

VERSUS

1. Bharat Sanchar Nigam Limited (BSNL),
Through- Chairman-cum-Managing Director,
Corporate Office – Personnel-II Section,
102-b, Statesman House, 148, Barakhamba Road,
New Delhi-1.

2. Chief General Manger,
Bharat Sanchar Nigam Ltd. (BSNL),
Chhattisgarh Telecom Circle,
Khamardih, Raipur,
Chhattisgarh.

P.R. No. 19/3/06
Presented by Shri P. Sharma
dated 5/4/06

3. General Manger Telecom District,
Durg,
Distt. Durg,
Chhattisgarh. **RESPONDENTS**

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT IN THE NATURE OF MANDAMUS, CERTIORARI ETC.

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21-6-2006

Mr. Pankaj Shrivastava, counsel for the petitioner.

Mr. R.M. Solapurkar, counsel for the respondents.

Heard both the counsel.

By this writ petition under Article 226/227 of the Constitution of India, the petitioner has questioned the transfer order dated 14-3-2006 passed by the Chairman-cum-Managing Director, BSNL respondent No.1, whereby the petitioner has been transferred from Chhattisgarh Circle to Jammu & Kashmir Circle.

The case of the petitioner is that after reorganization of the State, the petitioner has been posted in Chhattisgarh Circle as Sub Divisional Officer (Rural) in the Office of respondent No.3 General Manager Telecom District, Durg and since then he is discharging his duties. His service tenure in the Chhattisgarh Circle is five years. However, vide order dated 14-3-2006 (Annexure P-1), the petitioner has been transferred from Chhattisgarh Circle to Jammu & Kashmir Circle, whereas large number of Group 'B' Officers having more than five years' stay are working in the Chhattisgarh Circle and it is not known as to why the petitioner has been chosen for transfer. As per the Group 'B' Officers' Transfer and Posting Policy of BSNL, the petitioner is entitled to stay for 24 years in the Chhattisgarh Circle. Moreover, the petitioner has attained the age of more than 55 years and as per clause 7 of the Transfer & Posting Policy, the respondents ought to have avoided the posting of the petitioner to hard tenure station. Moreover, the petitioner is a heart patient and he has undergone bypass surgery in February, 1994 and since then the health of the petitioner is deteriorating day by day. He took treatment from Apollo Hospitals, Madras, which is evident

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

from Annexure P-4. The petitioner has 75 years old mother and other family members to look after. The petitioner submitted a representation to respondent No.1 for cancellation of his transfer on 21-3-2006 (Annexure P-5), but that has not been decided.

In the rejoinder, it has been mentioned that the Chhattisgarh Circle has been declared as hard tenure station vide circular dated 12-2-2004. The petitioner has completed more than two years in a tenure circle and he has given his choice of place for transfer, but same has not been considered by the respondents. In para 5 of the rejoinder, it has been mentioned that before passing the impugned order, the list of longest stay of Group 'B' Officers who are working in the Chhattisgarh Circle was supplied by the CGM, Chhattisgarh to the Corporate Office, New Delhi, in which the name of the petitioner does not appear, even then, the petitioner has been transferred. The names of ten officers whose longest stay in the Chhattisgarh Circle are V.B. Jakate, S.P. Patel, L.N. Tiwari, S.K. Tiwari, R.R. Singh, N.G. Raut, N.K. Minj, P.K. Som, P.K. Sahu & B. Bhotekar. But, in spite of that, the petitioner has been transferred without sending the name of the petitioner. The respondents are considering Madhya Pradesh & Chhattisgarh as one circile, which is not correct. Chhattisgarh is a separate circle.

Return has been filed on behalf of the respondents. In the return filed on behalf of respondent No.1 it has been mentioned that the order has been effected with the approval of the competent authority. Considering the requirement and to have stable function of the telecommunications network in the Jammu & Kashmir region, 36 Officers in the grade of SDEs were posted among others. Mr. Raghuvanshi, the petitioner herein, along with two more officers has

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश - 3 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

been posted from Chhattisgarh Circle. The official has been in M.P. Telecom Circle/Chhattisgarh Telecom Circle for more than 24 years and the postings were made on the basis of longest stay. The Jammu & Kashmir Telecom Circle is a hard tenure station. The tenure period is two years. The posting of Mr. Raghuvanshi to Jammu & Kashmir Telecom Circle has been made based on the longest stay in the combined M.P./Chhattisgarh Telecom Circles.

It is admitted position that the Chhattisgarh Circle has been carved out as a separate circle and the petitioner is working in this circle since 2000. As per the Transfer & Posting Policy, the petitioner can continue up to 24 years in the Chhattisgarh Circle and the same has been declared as hard tenure station, as per the order of 2004. The petitioner has stated that ten more officers whose names have been mentioned are officers of the longest stay in the Chhattisgarh Circle. The name of the petitioner was not sent by the General Manager, even then, he has been transferred. The petitioner is aged about 56 years. Therefore, as per clause 7 of the Transfer & Posting Policy, normally hard tenure officers are to be avoided, apart from that the petitioner is already working in the hard tenure station and he is a heart patient.

Therefore, considering the above documents and arguments of respective counsel, respondent No.1 is directed to decide the representation of the petitioner after taking into consideration the above factors with a reasoned order within a period of two weeks from the date of receipt of a copy of this order. If any adverse order is passed, the petitioner is at liberty to move this Court. If so advised C.A

With the direction aforesaid, the petition stands disposed of.

Sd/-
L.C. Bhadoo
Judge